

CITY OF MORGAN HILL
REGULAR CITY COUNCIL AND
SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES - JUNE 21, 2000

Mayor/Chairman Kennedy called the meeting to order at 7:02 p.m.

ROLL CALL

Present: Council Members Greg Sellers, Steve Tate, Mayor Dennis Kennedy
Absent: Council Member Cynthia J. Cook
Late: Council Member Hedy L. Chang (7:38 P.M.)

DECLARATION OF POSTING OF AGENDA

Deputy City Clerk/ Lois A. Corbet certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor Kennedy, Deke Descoteaux Led the Pledge of Allegiance

INTRODUCTIONS

Finance Director Jack Dilles introduced Vivian Hayes and Mario Jimenez, both Accounting Assistants I, recently hired employees.

Interim City Manager/Interim Executive Director Ed Tewes introduced Ken Howard, Police Officer, (who was not present) and hoped to present to the Council at a later date.

CERTIFICATE OF RECOGNITION

Mayor Kennedy presented a Certificate of Recognition to Deke Descoteaux for his dedication and service to the community.

CITY COUNCIL REPORT

Mayor/Chairperson Kennedy reported on the following:

1. Valley Transportation Authority (VTA) with the Silicon Valley Manufacturing Group are putting together a list of projects to put on the November ballot a ½ percent sales tax. During tonight's meeting, the Council will be discussing what they want put on that list. Additional outside agency meetings will take place to further discuss what projects best solves some of the transportation problems in south county. Its very important to get those items critical to Morgan Hill on the list.
2. Over the next 5 years, the City will be doing projects totaling over \$100,000,000; including the community center, a new library, a new youth center, a new senior center, major infrastructure

projects, a sports complex, acquisition of a soccer complex, an aquatic center, extending Butterfield Boulevard, working of flood control projects.

3. During the Mayor's conference in Seattle, Washington, Mr. Kennedy was able to hear Vice President Al Gore and Presidential Candidate George Bush speak. He attended several workshops which focused on youth; preventing youth violence, programs for getting additional police officers in our community, and housing problems facing the country. It will be more difficult for citizens to own their own home; the chance to realize the American dream.

INTERIM CITY MANAGER'S REPORT

Interim City Manager Ed Tewes reported on the status of the proposals for medical services. CHW and the Morgan Hill Community Hospital will be submitting the information requested by the Council at the July 12, 2000 City Council meeting.

INTERIM CITY ATTORNEY'S REPORT

Interim City Attorney Helene Leichter stated there is no report.

PUBLIC COMMENT

Mayor Kennedy opened the floor to public comment.

Kit Greenberg stated she received two disturbing reports and asked Council to direct the Building Department to vigorously enforce the zoning regulations and building code regulations related to the old St. Louise building property. Both of the reports indicated members of the San Jose Bible College are in residence in the buildings, where there is no residential zoning. If it is true, the college residents need to be reminded they do not have residential zoning there, and are in violation. Ms. Greenberg also asked the Council to direct the Building Department to not issue any building permits for demolition or renovation of the building until zoning agrees with the use of the building.

There being no further comments, Mayor Kennedy closed the public comment portion of the meeting.

City Council Action

CONSENT CALENDAR:

Mayor Kennedy requested Item #7 be pulled from this Consent Calendar and be voted on with Item #9 under the City Council/Redevelopment Agency Consent Calendar.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council on a 3-0 vote, **approved** Consent Calendar Items 1-6 and 8 as follows:*

1. **MAY 2000 FINANCE AND INVESTMENT REPORT**

Action: *Accepted and filed the report.*

2. **APPROVAL OF CHANGE ORDER FOR NORDSTROM PARK**

Action: *Approved Change Order to Robert Bothman Inc. for Construction of Nordstrom Well Facilities Constructed as a Part of the Nordstrom Park Project in the Amount of \$28,727.*

3. **DEVELOPMENT IMPACT FEE INFLATIONARY AUTOMATIC INCREASE**

Action: *Adopted Resolution No. 5402 Rescinding Resolution No. 5278 and Amending Resolution No. 4997 to Adjust the Traffic Impact Mitigation Fee per the Current Engineering News Record Construction Cost Index, and Adopted Resolution No. 5403 Rescinding Resolution No. 5279 and Amending Resolution No. 4930 by Increasing the Development Impact Fees per the Current Engineering News Record Construction Cost Index.*

4. **SETTING OF ANNUAL PUBLIC HEARING FOR FOX HOLLOW - MURPHY SPRINGS LIGHTING AND LANDSCAPING ASSESSMENT DISTRICT**

Action: *Adopted Resolution No. 5404 Initiating Proceedings for the Levy and Collection of Assessments for the Fox Hollow Murphy Springs Landscape Assessment District, Fiscal Year 2000/01, Adopted Resolution No. 5405 for Preliminary Approval of the Engineer's Annual Levy Report Regarding the Proposed Levy and Collection of Assessments for the Fox Hollow/Murphy Springs Landscape Maintenance District, Fiscal Year 2000/01, and Adopted Resolution No. 5406 Declaring Intention for the Levy and Collection of Assessments for the Fox Hollow/Murphy Springs Landscape Maintenance District, Fiscal Year 2000/00.*

5. **RECLASSIFICATION OF CIVILIAN POLICE POSITIONS**

Action: *Approved the New Job Classification of Police Support Services Specialist III, Approved the New Job Classification of Community Service Officer, and Reclassified Two Existing Police Support Services Specialist II Positions to Police Support Service Specialist III and One Existing Police Support Service Specialist II to Community Service Officer.*

6. **PURCHASE OF NETWORKING EQUIPMENT**

Action: *Authorized the Purchase of Networking Equipment for \$27,969.64 to link the Three Major City Facilities.*

8. **AMENDMENT TO CONTRACT WITH THE SANTA CLARA COUNTY FIRE DEPARTMENT TO PROVIDE PARAMEDIC-LEVEL SERVICE**

Action: *Directed Interim City Manager to Execute Contract with the Santa Clara County Fire Department for Fire Engineer-based Paramedic Service.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Council Member/Agency Member Tate and seconded by Council Member/Agency Member Sellers, the City Council/Redevelopment Agency on a 3-0 vote (Council Member/Agency Member Cook absent) **approved** Consent Calendar Items 7 and 9 as follows:*

7. **FISCAL YEAR 1999/2000 BUDGET ADJUSTMENTS**

Action: **Approved** Proposed 1999/2000 Adjustments.

9. **APPROVAL OF JOINT SPECIAL/REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JUNE 7, 2000**

Action: **Approved** meeting minutes as written.

City Council Action

PUBLIC HEARINGS:

10. **CONFIRMING THE SANTA CLARA COUNTY FIRE MARSHAL'S REPORT RELATING TO BRUSH ABATEMENT**

Interim City Manager Tewes stated the staff report is just to schedule the public hearing to the July 12, 2000 City Council meeting.

Mayor Kennedy opened the floor to public comment. No comments being offered, the public hearing was closed.

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate the City Council on a 3-0 vote (Council Member Cook absent) **continued** the Public Hearing to July 12, 2000.*

11. **DEVELOPMENT AGREEMENT AMENDMENT DAA 97-08: E. MAIN - MAIN ST. DEVELOPERS**

Ordinance No. 1481, New Series

Ordinance No. 1482, New Series

David Bischoff, Director of Community Development presented the staff report.

Mayor Kennedy opened the floor to public comment.

Rocke Garcia, stated, within the contract with the purchaser of the four lots, is included very important criteria, as far as the exterior architecture. The architecture will match the existing houses; there will be continuity within the subdivision, still maintaining the custom home appearance.

There being no further comments, Mayor Kennedy closed the public comment portion of the meeting.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council by a 3-0 vote (Council Member Chang and Cook absent) **Waived** the Reading in Full of Ordinance No. 1481 N.S., Approving the Amendment to the Project Development Agreement.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council by a 3-0 vote, **Introduced** Ordinance No. 1481, N.S. by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING A DEVELOPMENT AGREEMENT FOR APPLICATION MP-96-23: E. MAIN-PAN CAL AND MP 99-02: CALLE SIENA-MAIN ST. DEVELOPERS ALLOWING FOR A TWO-YEAR EXTENSION OF THE BUILDING ALLOTMENTS FOR THE FOUR CUSTOM LOTS WITHIN THE PROJECT. (APN 726-21-25) by the following roll call vote: AYES: Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang, Cook.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council by a 3-0 vote (Council Members Chang and Cook absent) **Waived** the Reading in Full of Ordinance No. 1482 N.S., Approving the Four New Development Agreements for the Custom Lots.*

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council by a 3-0 vote, **Introduced** Ordinance No. 1482 N.S. by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING THE ADOPTION OF FOUR INDIVIDUAL DEVELOPMENT AGREEMENTS FOR THE FOUR CUSTOM LOTS WITHIN MP-96-23: E. MAIN-PAN CAL AND MP 99-02: CALLE SIENA-MAIN ST. DEVELOPERS. (APN 726-21-25, 27 & 31). by the following roll call vote: AYES: Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang, Cook.*

12. EXCEPTION TO LOSS OF BUILDING ALLOTMENT AWARDED TO APPLICATION MMP-00-01: BERKSHIRE - SINGH (APN 764-23-054)
Resolution No. 5408

David Bischoff, Director of Community Development presented the staff report.

Mayor Kennedy opened the closed session items to public comment. No comments were offered.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council, on a 3-0 vote (Council Members Chang and Cook absent) **Adopted** Resolution No. 5408, Granting Exception to Loss of Building Allocation.*

13. EXCEPTION TO LOSS OF BUILDING ALLOTMENT AWARDED TO APPLICATION MP-93-08: SAN PEDRO - BARTON REDLANDS
Ordinance No. 1483, New Series

David Bischoff, Community Development director presented staff report. Mr. Bischoff stated the project developer has not been able to secure financing in order to build the below market rate units. The Business Assistance and Housing Services and Planning Division have been working with the developer to see what other alternatives are available to secure financing. The development agreements now require the BMRs need to be built concurrent with other portions of the project to avoid this type of situation.

Council Member Sellers asked if the difficulty in finding financing was due to the type of housing or with the developer?

Garrett Toy, Director of Business Assistance and Housing Services, the developer has indicated it is the value of the unit, since the lender is valuing it at the lower level, and that's why he can't get all the financing.

Mayor Kennedy asked if the developer is trying to avoid building the units?

Interim City Attorney Leichter said they (City Attorney's office and staff) are looking at remedies, including specific performance, and payment of an in-lieu fee which would allow the City to finance the construction, perhaps in conjunction with a non-profit organization. If the discussion with the developer are not fruitful, they may be returning to Council in Closed Session.

Council Member Sellers stated he is sure the staff will make these units a reality, but caution the staff not to get in to the position where the City is subsidizing the developer; ending up with more cost than what is received in income.

Mayor Kennedy opened the closed session items to public comment. No comments were offered.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers the City Council by a 3-0 vote (Council Members Chang, Cook absent) **Waived** the Reading in Full of Ordinance No. 1483 N.S., Approving the Amendment to the Project Development Agreement.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers the City Council by a 3-0 vote (Council Members Chang, Cook absent) **Introduced** Ordinance No. 1483N.S. by Title Only as follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING A DEVELOPMENT AGREEMENT TO GRANT AN EXCEPTION TO THE LOSS OF BUILDING ALLOCATIONS FOR THE 31 UNIT VILLA NOVA PROJECT. (APN 817-31-53) by the following roll call vote: AYES: Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang, Cook.*

City Council and Redevelopment Agency Action

14. PUBLIC HEARING FOR ADOPTION OF THE 2000/01 BUDGET

Resolution No. 5409

Resolution No. MHRA - 217

Jack Dilles, Finance Director presented staff report.

Mayor/Chairperson Kennedy congratulated Mr. Dilles and Finance Department staff for winning the "Certificate of Achievement for Excellence in Financial Reporting" for the 1998/1999 Comprehensive Annual Financial Report, presented by the Governmental Finance Officers' Association.

Mayor Kennedy opened the closed session items to public comment. No comments were offered.

Interim City Manager/Interim Executive Director Tewes stated he and Julie Spier, Recreation Manager, met with Mr. Pete Zsiga (YMCA) and over the course of the next year, they will be working closely with the Senior Advisory Committee to determine what options are available to expanding services, and will be returning to Council mid-year with those recommendations.

Mayor Pro Tempore/Agency Member Tate congratulated staff on their hard work and stated they were very responsive to Council's requests.

Council Member/Agency Member Chang very pleased with the budget, but asked if there shouldn't be a contingency fund for medical services; a need for set-aside money for future. Ms. Chang stated she sees the City going to another site for medical services and there is definitely a need to designate \$500,000 to explore options.

Interim City Manager/Interim Executive Director Tewes stated: 1) there is sufficient money in the budget to continue with evaluation of the situation and 2) implementation of the plan. The City has strong financial resources and money can be designated at that time.

Council Member/Agency Member Chang asked how much is there in the budget?

Interim City Manager/Interim Executive Director Tewes responded by saying, in the replacement pages 36 and 37, there is a schedule which shows all the City's funds.

Mayor Pro Tempore/Agency Member Tate stated the City is still striving to meet the objective, and he doesn't want to allocate any money at this time.

Council Member/Agency Member Sellers stated, if an allocation is made, then the citizens, would perceive that money as already spent; there is a need to allocate money, but not now. The money is available and Council can consider the allocation later.

Interim City Manager/Interim Executive Director Tewes stated he made contact with both organizations that submitted proposals, Catholic Healthcare West (CHW) and Community Hospital of Morgan Hill. Both organizations said they would address the Council's policies.

Interim City Manager/Interim Executive Director Tewes said he had a telephone conversation with Council Member/Agency Member Cook, and that she is okay with the budget, but would discuss some concerns regarding the capital improvement program when the project(s) came before the Council.

Mayor Kennedy asked Interim City Manager/Interim Executive Director Tewes to summarize the budget, giving attention to the benefits to the public.

Interim City Manager/Interim Executive Director Tewes responded by saying, the City is in a strong financial condition and has ambitious plans for significantly improving the quality of services and the availability of public facilities. The City is able to embark upon the plans for two financial reasons: 1) a strong economy is generating additional discretionary resources for the community and 2) the existence of the Council's prudent financial management policies, which includes the establishment of contingencies and ensuring before City undertakes new programs, or facilities, that the resources exist to maintain them. The City is at its strongest financial condition in a decade. Mr. Tewes thanked the staff for their hard work and commitment.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council, by a 4-0 vote (Council Member Cook absent) **Adopted** Resolution No. 5409, Adopting the 2000/01 Annual City Budget, Incorporating Certain Changes to the Proposed Budget, and Adopting the Appropriations Limit for Fiscal Year 2000/01.*

Action: *On a motion by Agency Member Tate and seconded by Vice-Chairperson Sellers, the Redevelopment Agency, by a 4-0 vote (Agency Member Cook absent) **Adopted** Resolution No. MHRA - 217, Adopting the 2000/01 Annual Agency Budget*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council, by a 4-0 vote (Council Member Cook absent) **Approved** the Revised Capital Improvement Plan.*

Mayor Kennedy adjourned to the special meeting, 8:07 p.m.

RECONVENED

Mayor/Chairperson Kennedy reconvened the meeting at 8:48 P.M.

SECOND READING OF ORDINANCE:

15. ADOPT ORDINANCE NO. 1479, NEW SERIES

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council adopted Ordinance No. 1479, New Series as follows:*

ORDINANCE NO. 1479, New Series – *An Ordinance of the City Council of the City of Morgan Hill Amending Ordinance No. 559 New Series, by Rezoning 2.344 Acres Located on the East Side of Murphy Avenue, Approximately 564 Feet South of E. Dunne Avenue, at 16850 Murphy Avenue. The Zoning Amendment Would Prezone the Property from County A1-2.5AC to City R1-7,000 (APN 817-19-001) by the following roll call vote: AYES: Kennedy, Sellers, Tate; NOES: None; ABSTAIN: Chang; ABSENT: Cook.*

16. ADOPT ORDINANCE NO. 1480, NEW SERIES

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, and by a 3-1-1 (Council Member Chang, abstaining; Council Member Cook, absent) vote, the City Council continued Ordinance No. 1480, New Series until the next regularly scheduled City Council meeting.*

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the closed session items to public comment. No comments were offered.

CLOSED SESSION:

Interim City Attorney Leichter announced the following closed session items.

1.

CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION

Legal Authority:	Government Code 54956.8 & 54956.9(c) (1potential case)
Real Property(ies) involved:	APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Mission View and Cochrane Road; and APN 728-31-009 - 12.88 acres located on the southeast corner of Cochrane and Highway 101 (St. Louise Hospital property)
City Negotiators:	Agency Members; Interim Executive Director; Interim Agency Counsel; and F. Gale Conner, special counsel
Closed Session Topic:	Potential Litigation

2.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Legal Authority: Government Code 54956.9(b)(1) - Significant exposure to litigation

3.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation pursuant to Government Code section 54956.9(c) - One (1) potential case

4.

PUBLIC EMPLOYMENT

Legal Authority: Government Code Section 54957

Position: City Manager Recruitment

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to closed session at 8:51 p.m.

RECONVENE FROM CLOSED SESSION

Mayor/Chairman Kennedy reconvened the meeting at 9:58 p.m.

CLOSED SESSION ANNOUNCEMENT:

Interim City Attorney/Agency Counsel Leichter announced that no reportable action was taken on the above listed closed session items.

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

No items were noted.

ADJOURNMENT: There being no further business, Chairman/Mayor Kennedy adjourned the regular and special meeting at 9:59 p.m.

MINUTES RECORDED AND PREPARED BY:

LOIS A. CORBET
Deputy Agency Secretary/Deputy City Clerk